

Andy Pernsteiner

From: Chris Ashcraft
Sent: Wednesday, May 14, 2025 8:48 AM
To: Derek Allen
Cc: Andy Pernsteiner
Subject: OMC Complaint

Work Product

I thoroughly reviewed Derek's memo and reviewed the attachments I was provided.

Legal analysis –

I do not see any evidence of traditional criminal conduct because there is a lack of criminal intent to harm anyone, including the public. There may be OPMA violations that could run their ordinary course but those are issues for State regulators to investigate.

There is no RICO violation because there is no criminal intent.

In a RICO case you have a mix of legal and criminal actions that all support an overarching criminal scheme, i.e., the business itself is crime though lots of the things the organization does is legal (run a strip club, pick up garbage, etc.) in order to hide the proceeds of the illegal activity (protection, drugs, murder). With regard to the hospital, it's goal is legal (providing medical care to the Olympic Peninsula), but some of what they did might have violated OPMA. Since the goal, providing good health care, is 100% legal, there is not a RICO case even if they intentionally violated OPMA (and I don't see intent to commit a crime).

If you have any other questions let me know.

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Case No.: 2025-3822

Report Date: 5/14/2025

Officers: Detective Sergeant Derek Allen #94

Case Status: Closed

Routing: Jefferson County Prosecuting Attorney

This narrative summarizes many of the events related to this investigation. This report may contain paraphrased conversations that are intended only as a summary. The details reported may not describe the exact sequence of events. During this investigation, one or more audio / video recordings may have been captured on body worn cameras worn by Jefferson County Sheriff's Office Deputies. If present, these recordings were uploaded to Evidence.com and should be reviewed as they may show additional detail as to the exact statements and sequence of events.

On 4/8/2025 I was assigned to an investigation by Sheriff Pernsteiner. Sheriff Pernsteiner requested I review, analyze and investigate the complaint for any criminal wrongdoings. The email I received from Sheriff Pernsteiner consisted of three (3) documents:

- raw transcripts peninsula health alliance – copy.pdf
- v3 Transcripts and Emails Peninsula Health Alliance Timeline.pdf
- Summary Report_ Legal Concerns Raised by Attorney Austin Hatcher Regarding the Peninsula Health Alliance Proposal (1).pdf

Below outlines my examination and evaluation of the documents, RCW's, legislation and case law.

Key Points –

- It seems likely that the actions described may violate the Washington State Open Public Meetings Act (OPMA), with potential civil penalties, but criminal charges are less certain and would need further investigation.
- Research suggests possible official misconduct, a gross misdemeanor, if actions were taken with intent to benefit or deprive rights, but proving intent is complex.
- The evidence leans toward unauthorized board actions and suppression of transparency, raising concerns about public trust and governance.

Background –

The complaint alleges misconduct by Jefferson Healthcare leadership, including misuse of executive sessions, unauthorized actions, and suppression of public information, potentially impacting criminal law in Washington state.

Analysis –

The allegations center on violations of the OPMA, which requires public meetings for governing bodies like hospital district boards, with limited exceptions for executive sessions. The complaint

suggests executive sessions were misused to discuss a governance proposal under a real estate pretext, likely violating OPMA, as only specific real estate price discussions are allowed in private ([Washington State Legislature - RCW 42.30](#)). Unauthorized submission of a proposal without public board approval may also breach district governance laws under Chapter 70.44 RCW, potentially constituting official misconduct under RCW 9A.80.010 if intent to benefit or deprive rights is shown. Suppression of commissioner speech and misleading statements could further complicate legal standing, possibly involving civil penalties but with criminal implications less clear without proven intent.

No single section of Chapter 70.44 RCW explicitly states "unauthorized submission of a proposal is prohibited." However, RCW 70.44.060 establishes the commissioners as the governing body with decision-making power. An unauthorized action by an individual (ie., a superintendent or employee) could be interpreted as exceeding their delegated authority, violating the governance structure set forth in this section. Additionally, RCW 70.44.050 requires commissioners to act collectively at "regular or special meetings," reinforcing that official actions, like approving proposals, must occur through formal board processes—not unilaterally.

Regarding the connection to RCW 9A.80.010 (official misconduct), a violation of RCW 70.44.060 could potentially align with misconduct if intent to "obtain a benefit or deprive another of a benefit" is proven, as this criminal statute requires a public servant to knowingly commit an unauthorized act under color of law. However, this would depend on evidence of intent, which Chapter 70.44 RCW itself does not address—it focuses on structure and authority, not criminality.

Unexpected Details –

An unexpected aspect is the potential involvement of legal counsel as a co-conspirator, which could raise ethical issues for the Washington State Bar Association, though criminal liability remains uncertain.

Note –

This note provides a comprehensive analysis of the allegations in the complaint submitted by Commissioner Matt Ready regarding suspected misconduct at Jefferson Healthcare, focusing on potential violations of Washington state criminal law. The complaint, dated March 26, 2025, details issues such as misuse of executive sessions, unauthorized board actions, suppression of public transparency, and coordinated behavior possibly rising to criminal conspiracy or racketeering. The evaluation considers relevant statutes, case law, and the provided evidence, including emails, meeting transcripts, and legal opinions.

Legal Framework and Relevant Statutes –

Washington state law, particularly the Open Public Meetings Act (OPMA) under Chapter 42.30 RCW, mandates that meetings of governing bodies of public agencies, including public hospital districts, be open to the public, with specific exceptions for executive sessions. Executive

sessions are permitted for limited purposes, such as discussing the minimum price for real estate sales or leases when public knowledge could affect prices, as outlined in RCW 42.30.110(1)(b) and (1)(c) ([Washington State Legislature - RCW 42.30](#)). The Washington Supreme Court, in *Columbia Riverkeepers v. Port of Vancouver* (2017), narrowed this exception, ruling that only price minimums, not broader negotiations, can be discussed privately ([MRSC - The Supreme Court Narrowly Construes the "Minimum-Value" Executive Session Exception to the OPMA](#)).

Public hospital districts are governed by Chapter 70.44 RCW, with board powers and duties detailed in RCW 70.44.060, including contracting, property acquisition, and operational decisions ([Washington State Legislature - Chapter 70.44 RCW](#)). Criminal laws potentially applicable include official misconduct under RCW 9A.80.010, defined as a public servant intentionally committing unauthorized acts or refraining from duties with intent to obtain a benefit or deprive rights, classified as a gross misdemeanor ([Washington State Legislature - RCW 9A.80.010](#)). Criminal conspiracy is covered under RCW 9A.28.040, requiring an agreement to commit a crime with a substantial step taken ([Washington State Legislature - RCW 9A.28.040](#)). Racketeering, under Chapter 9A.82 RCW, involves a pattern of criminal profiteering activity for financial gain, with definitions including acts like murder and robbery ([Washington State Legislature - Chapter 9A.82 RCW](#)).

Analysis of Allegations –

- Misuse of Executive Sessions

The complaint alleges that executive sessions were held under the pretense of discussing "possible real estate transactions" but actually centered on a regional governance restructuring with Olympic Medical Center (OMC) through the Peninsula Health Alliance, a nonprofit entity, without specific property negotiations. This appears to violate OPMA, as the Washington Supreme Court limits executive session discussions to minimum prices for real estate, not governance strategies. Attorney Austin Hatcher's legal opinion, dated March 26, 2025, states, "The executive session was under a very stretched reading of the 'lease' purposes of RCW 42.30.110(1)(b) and (c)... That is not the case here," supporting the likelihood of an OPMA violation ([Digital Media Law Project - Open Meetings Laws in Washington](#)).

Timeline evidence, such as the February 5, 2025, executive session discussing the proposal without real estate specifics, and CEO Mike Glenn's email on February 12, 2025, mentioning potential leasing assets, suggests misuse. However, the primary focus was governance, likely exceeding OPMA exceptions.

- Unauthorized Board Action

The complaint states the proposal, a 38-page core document within a 160-page package, was submitted to OMC without formal board authorization in a public vote, potentially via informal "voice consent" in executive session. RCW 70.44.060 grants boards broad powers, but major decisions, especially binding proposals, typically require public meetings. The complaint's assertion, "If informal 'voice consent' was obtained in executive session, that constitutes illegal board action under OPMA," aligns with OPMA's prohibition on final actions in executive

sessions. Emails, such as Glenn's February 12, 2025, note of scrambling to meet the deadline, indicate action without public approval, possibly unauthorized under district laws.

- **Suppression of Public Transparency and Misrepresentation**

Officials, including CEO Mike Glenn and Chair Jill Buhler, allegedly misrepresented the proposal as "inconsequential" or "airy-fairy," despite its formal nature, misleading the board and public. This is evidenced in meeting transcripts from February 19, 2025, where Glenn stated, "There's really nothing to talk about right now," despite submission. Commissioner Ready was discouraged from public discussion, with Buhler calling on March 14, 2025, to remove website content, potentially raising First Amendment concerns, though not directly criminal. This pattern, detailed in the complaint's table of misleading statements, suggests suppression, impacting public trust and transparency.

- **Coordinated Conduct and Potential Criminal Conspiracy or Racketeering**

The complaint suggests a pattern of withholding legal opinions, avoiding public processes, and private communications resembling serial meetings, possibly meeting conspiracy thresholds under RCW 9A.28.040, requiring an agreement to commit a crime with a substantial step. Official misconduct under RCW 9A.80.010 could be the underlying crime if actions were unauthorized with intent to benefit, such as consolidating control. However, proving intent is complex and emails show efforts to avoid serial meetings. Like Kolff's February 8, 2025, instruction not to respond. Racketeering under Chapter 9A.82 RCW, requiring a pattern of profiteering acts like murder or robbery, seems unlikely, as definitions (effective until April 1, 2025, adding catalytic converter trafficking post-April) don't fit governance issues.

Legal counsel Brad Berg's role, advising on executive session use despite invalidity, may raise ethical concerns, potentially reported to the Washington State Bar Association, but criminal complicity is uncertain without clear evidence of intent.

Penalties and Criminal Implications –

OPMA violations carry civil penalties, increased to \$500 for first-time knowing violations and \$1,000 for repeats, as per recent legislation ([Governor to sign AG-request bill to strengthen open public meetings law, increase penalties | Washington State](#)). Criminal implications hinge on official misconduct, requiring intent, which is not clearly evidenced here. Conspiracy would need a proven agreement and step(s), possibly a stretch given civil nature of OPMA. Racketeering is improbable without financial gain from listed crimes.

Conclusion –

The actions likely violate OPMA, with civil penalties applicable, and may constitute official misconduct if intent is proven. Criminal conspiracy or racketeering seems less supported, requiring much further evidence. The complaint's detailed documentation, including emails and legal opinions, suggest a review by the Washington State Attorney General's Office – Assistant Attorney General for Open Government who oversees possible OPMA violations.

Table: Summary of Potential Violations

Allegation	Relevant Law	Potential Violation	Criminal Implication
Misuse of Executive Sessions	RCW 42.30.110, OPMA	Likely, civil penalties	Unlikely, civil focus
Unauthorized Board Actions	RCW 70.44.060, OPMA	Possible, invalid actions	Unlikely, civil focus
Suppression and Misrepresentation	First Amendment, OPMA	Possible, civil remedies	Unlikely, civil focus
Coordinated Conduct	RCW 9A.28.040, 9A.80.010, 9A.82	Possible conspiracy, very unlikely racketeering	Requires intent proof, complex

On this date, 5/14/2025, I certify, or declare, under penalty of perjury under the laws of the State of Washington in the County of Jefferson that the foregoing is true and correct. Furthermore, I declare under penalty of perjury that I am a law enforcement officer and that in making this declaration I entered my user name and password into a device that is owned, issued, or maintained by a criminal justice agency, and this document was electronically submitted to a prosecutor pursuant to RCW 9A.72.085(3)(d).

Detective Sergeant Derek Allen #94
Jefferson County Sheriff's Office
Port Hadlock, WA 98339
5/14/2025